
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY :

:

Proposed general increase in electric rates, : **Docket No. 05-0597**

General restructuring of rates, price unbundling :

of bundled service rates, and revision of other :

terms and conditions of service :

:

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DRAFT ORDER
OF
THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF CHICAGO

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Now comes the BUILDING OWNERS AND MANAGERS ASSOCIATION OF CHICAGO (“BOMA”), by its attorneys GIORDANO & NEILAN, LTD., and hereby files its Draft Order (which includes BOMA’s Positions) in this proceeding pursuant to Section 200.810 of the Rules of Practice of the Illinois Commerce Commission (the “Commission” or “ICC”). BOMA urges the Commission to address the issues discussed below in the manner set forth in this Draft Order and grant the relief requested by BOMA in the Findings and Ordering Paragraphs of this Draft Order. Additionally, BOMA requests that the Commission adopt the revenue requirement recommendation by Commission Staff (“Staff”) in this proceeding.

By the Commission:

II. ISSUES

G. Cost of Service Issues

1. Embedded Cost of Service Study

ComEd Position

ComEd states that its embedded cost of service study presented in this proceeding allocates Distribution and Customer-related costs to retail delivery classes and develops the appropriate unit costs. (ComEd Ex. 11.0, pg. 5, ll. 90-102). ComEd distinguishes its embedded cost of service study, which utilizes historical relationships among booked costs and the volumes of services delivered by the utility, from a marginal cost of service study, which employs analyses and estimates of incremental changes in costs, as these changes are related to (caused by) incremental changes in volumes of services forecasted to be delivered in the future. (ComEd Ex. 11.0, pg. 5, ll. 98-102).

ComEd generally supports the use of a marginal cost of service study. (ComEd Ex. 9.0 Corr., pg. 43, ll. 925-936). However, in light of the fact that the Commission has approved and used an embedded cost of service study in the last two ComEd delivery services rate cases (ICC Dockets 99-0117 and 01-0423), and in the interest of narrowing the issues in this case, ComEd proposes the use of an embedded cost of service study for both interclass revenue allocation and rate design purposes. (ComEd Ex. 9.0 Corr., pg. 43, ll. 925-936). ComEd has used an embedded cost of service study in prior rate case proceedings before the Commission, primarily to determine the jurisdictional revenue requirement. (*See e.g.*, Orders, ICC Dockets 90- 0169, 94-0065, 99-0117, and 01-0423. ComEd Ex. 11.0, pg. 5, ll. 103-107; ComEd Ex. 9.0 Corr., pg. 43, ll. 925-936).

ComEd states that the basic structure and functioning of the embedded cost of service study it submitted in this proceeding is substantially similar to ComEd’s embedded cost of service studies filed and approved in ICC Docket Nos. 99-0117 and 01-0423. (ComEd Ex. 11.0, pg. 6, ll. 108-113). ComEd further states that the record demonstrates that the embedded cost of service study is reasonable and, therefore, should be approved. (ComEd In. Br. pg. 184).

BOMA Position

As further discussed below in Sections II.H.3. Revenue Allocation – Other and II.I.1.b)2) Very Large Load Customers, BOMA takes the position that ComEd’s embedded cost of service study should not be used to allocate any revenue requirement increase [or decrease] for nonresidential consumers because the embedded cost of service study only allocated costs based on ComEd’s proposed nonresidential customer classes rather than ComEd’s existing nonresidential customer classes.* (Trans., pg. 2242, ln. 12 – pg. 2243, ln. 1). In addition, BOMA points out that ComEd’s embedded cost of service study also is flawed because it classifies all distribution plant and associated costs in FERC accounts 364-368 as solely demand-related and it uses inappropriate weighting factors in its allocation of certain costs. (BOMA Ex. 2.0, pg. 14, ll. 309-324; BOMA Ex. 4.0, pg. 8, ll. 184-192). These two points are further described below in Sections II.G.2. – Minimum Distribution System and II.G.4.a) Weighting Factors.

BOMA recommends that rather than utilize ComEd’s embedded cost of service study to allocate the revenue requirement increase (or decrease) in this proceeding for nonresidential customer classes, the Commission should retain ComEd’s existing nonresidential delivery service customer classes and allocate any revenue requirement increase (or decrease) to nonresidential customers on an equal percentage, across-the-board basis to these existing customer classes. (BOMA Ex. 4.0, pg. 7, ll. 167-171; BOMA In. Br., pg. 10-11).

Staff Position

Staff found no issue that would prevent the acceptance of ComEd’s embedded cost of service study for ratemaking purposes; therefore Staff does not object to the study. (Staff Ex. 6.0 Corr., pp. 35-36, ll. 852-893; Staff In. Br., pg. 89).

IIEC Position

Like BOMA, the Illinois Industrial Energy Consumers (“IIEC”) states that ComEd’s embedded cost of service study did not provide information on the cost to serve ComEd’s existing nonresidential customer classes and did not reflect the minimum distribution system concept (IIEC Ex. 2.0, pg. 15, ll. 295-301, IIEC In. Br., pg. 28). Therefore, IIEC concluded that ComEd’s embedded cost of service study cannot be used to justify the consolidation of ComEd’s existing nonresidential customer classes and cannot be used for rate design for the over 10 MW class. (IIEC Ex. 2.0, pg. 9, ll. 165-171, IIEC In. Br., pg. 28).

Commission Analysis and Conclusion

The record in this proceeding establishes that ComEd did not present any cost of service study on its existing nonresidential delivery services customer classes. Without evidence of the costs to serve its existing nonresidential customer classes, ComEd cannot justify its proposed consolidation of its nine current nonresidential customer classes into

* BOMA does not contest ComEd’s use of the embedded cost of service study presented in this proceeding to allocate the revenue requirement in this proceeding between residential and nonresidential consumers.

only four customer classes and the use of ComEd's cost of service study to allocate any revenue requirement increase [or decrease] in this proceeding to ComEd's nonresidential consumers. Accordingly, the Commission is of the opinion and concludes that ComEd should retain its existing nonresidential delivery services customer classes, and that any revenue requirement increase [or decrease] for nonresidential consumers be allocated on an equal percentage, across-the-board basis to ComEd's existing nonresidential customer classes.

2. Minimum Distribution System

ComEd Proposal

ComEd's proposed embedded cost of service study does not reflect the minimum distribution concept. ComEd states that the Commission accepted this cost causation methodology in its Orders approving ComEd's embedded cost of service studies in ComEd's two previous delivery services rate cases. (ComEd Ex. 25.0, pg. 2, ll. 27-29). ComEd further states that the Commission has rejected the minimum distribution system and zero-intercept concepts in the past and should do the same here. (ComEd Ex. 25.0, pp. 3-4, ll. 47-68; ComEd In. Br., pg. 185). ComEd refers to Commission Dockets 99-0121 and 00-0802 in which the Commission rejected proposals by Ameren to employ the zero-intercept method of identifying the portion of distribution costs said to be related to connecting customers to the system. (ComEd Ex. 25.0, pg. 3, ll. 47-59). According to ComEd, the Commission agreed with Staff in that case, finding that "[a] utility's system is designed in an integrated manner to deliver electricity to customers in quantities to meet all customer demands and individual components of the system cannot be identified for purposes of connecting customers only." (Ill. C.C. Docket 00-0802, Final Order, pg. 42; ComEd In. Br., pg. 185).

ComEd argues that the minimum distribution system and zero-intercept concepts are attempts on the part of IIEC and BOMA to shift costs away from nonresidential customers to residential customers. (ComEd Ex. 25.0, pg. 7, ll. 142-47). Therefore, ComEd contends that the Commission should ignore BOMA's criticism of ComEd's embedded cost of service study with respect to minimum distribution system issues. ComEd further asks the Commission to deny the request of IIEC to require ComEd to incorporate a minimum distribution or zero-intercept concept in its next rate case. (ComEd Ex. 25.0, pp. 3-4, ll. 60-68).

BOMA Position

BOMA witness Mr. McClanahan testified that ComEd's embedded cost of service study does not comply with guidelines published by the National Association of Regulatory Utility Commissioners ("NARUC") with respect to FERC accounts 364-368 because ComEd's cost of service study classifies all distribution plant and associated costs in these accounts as solely demand-related and thereby ignores the customer-related portions of these accounts. (BOMA Ex. 4.0, pg. 8, ll. 184-192; ComEd Ex. 11.1, Schedule 1b). Mr. McClanahan further testified that the operating electric utilities of Southern Company never failed to consider the customer-related component of distribution system costs associated with FERC accounts 364-368 during his thirty years of cost of service experience with Southern Company. (BOMA Ex. 4.0, pg. 8, ll. 189-

192). Mr. McClanahan pointed out that the determination of the proper amount of customer related costs is critical to the accurate classification of these costs and the development of a cost-based customer charge. (BOMA Ex. 2.0, pg. 14, ll. 304-306). According to BOMA, ComEd never disputed Mr. McClanahan's testimony that ComEd's embedded cost of service study does not comply with NARUC guidelines with respect to FERC accounts 364-368. (BOMA Ex. 4.0, pg. 8, ll. 192-194).

BOMA takes the position that the Commission need not order ComEd to correct its cost of service study in this proceeding if the Commission orders ComEd to allocate any revenue requirement increase [or decrease] to nonresidential customers on an equal percentage, across-the-board basis to ComEd's existing nonresidential customer classes. However, BOMA's position is that the Commission should order ComEd to follow the NARUC guidelines for allocating costs in FERC accounts 364-368 in ComEd's cost of service study presented in ComEd's next delivery services rate case.

IIEC Position

IIEC's position is essentially similar to BOMA's. IIEC witness Mr. Chalfant agreed with Mr. McClanahan that ComEd's failure to allocate any distribution plant in FERC accounts 364-368 to customer-related costs misallocates costs to ComEd's consumers. (BOMA Ex. 4.0, pg. 8, ll. 194-197; IIEC Ex. 2.0, pg. 14, ll. 277-281). IIEC witness Mr. Chalfant also testified this misallocation could change the allocation of distribution plant costs to consumers by 30% to 50%. (IIEC Ex. 2.0, pg. 2.0, pg. 15, ll. 292-294).

Staff Position

Staff takes the position that the Commission should reject the proposals by IIEC and BOMA to use a minimum distribution system to allocate distribution costs, arguing that the Commission has rejected the minimum distribution system in the past. (Staff In. Br., pg 89). According to Staff, the arguments of Messrs. McClanahan (on behalf of BOMA) and Chalfant (on behalf of IIEC) are not persuasive because the minimum distribution system relies on a distant relationship between distribution costs and the number of customers as a basis to shift costs from the demand to the customer function, and thereby benefit large customers at the expense of smaller customers on the system. (Staff Ex. 17.0 Corr., pp. 40-41, ll. 996-1001; Staff In. Br., pp. 89-90). Staff argues that the most relevant factor in determining the costs of connection is not the number of customers, but rather the location of customers within the utility's service territory. (Staff Ex. 17.0 Corr., pp. 40-41, ll. 1003-1005; Staff In. Br., pg. 90)

Citing the Commission's Orders in Docket No. 00-0802 (Ameren), pp. 42-43 (Dec. 11, 2001); and Docket No. 99-0121 (CIPS), p. 71 (Aug. 25, 1999), Staff discounts BOMA witness Mr. McClanahan's reference to the NARUC Electricity Cost Allocation Manual on grounds that the Commission has previously rejected the allocation of distribution costs on a customer basis. (Staff In. Br., pg. 90, Staff Ex. 17.0 Corr., pg. 41, ll. 1010-1016). Staff further states that no electric or gas utility in Illinois currently employs a minimum system to allocate costs among customer classes. (Staff In. Br., pg. 90, Staff Ex. 17.0 Corr., pg. 41, ll. 1016-1018).

Staff also criticizes the specific proposals by IIEC witness Mr. Chalfant and BOMA witness Mr. McClanahan, arguing that the latter does not explain the nuts and bolts of how a minimum system approach should be adopted for ComEd's cost of service study, while the former does not recommend specific action in this proceeding, but asks that the Commission order ComEd to recognize a minimum distribution component in its next delivery services rate case. (Staff In. Br., pp. 90-91).

Commission Analysis and Conclusion

The Commission is of the opinion and concludes that ComEd must allocate the distribution plant and associated costs in FERC accounts 364-368 between customer-related components and demand-related components in order to develop a cost-based customer charge. Accordingly, the Commission is of the opinion and concludes that ComEd should follow the guidelines contained in NARUC's Electricity Cost Allocation Manual for allocating costs in FERC accounts 364-368 in the cost of service study presented in ComEd's next delivery services rate case.

4. Other

a) Weighting Factors

ComEd Proposal

ComEd states that it provided an explanation regarding the development of the weighting factors used to derive certain allocators employed in its proposed embedded cost of service study, and that ComEd's weighting factors are not arbitrary. (ComEd Ex. 25.0, pg. 9, ll. 182-183; ComEd In. Br., 186). ComEd witness Mr. Heintz testified that ComEd's workpapers showing the development of these weighting factors have been submitted pursuant to the filing requirements under Part 285 of the Commission's Rules. 83 Ill. Adm. Code 285. (ComEd Ex. 25.0, pg. 9, ll. 183-185). In addition, ComEd states that the spreadsheet versions of the work papers have been provided in ComEd's response to a data request from the Attorney General (AG 4.03). (ComEd Ex. 25.0, pg. 9, ll. 185-186). ComEd also states that it provided explanations of the development of specific weighting factors in responses to data requests from Staff. (ComEd Ex. 25.0, pg. 9, ll. 186-192).

BOMA Position

BOMA states that another flaw in ComEd's embedded cost of service was the weighting factors that ComEd used to allocate certain types of costs to ComEd's proposed customer classes throughout ComEd's cost of service study. (BOMA Ex. 2.0, pg. 14, ll. 309-314). BOMA cost of service expert witness Mr. McClanahan testified that the weighting factors used to allocate certain types of costs such as ComEd's metering services and billing and accounting expenses should not vary significantly across customer classes because these costs should be essentially the same on a per customer basis. (BOMA Exhibit 4.0, pg. 9, ll. 203-209). BOMA Exhibit 2.5 shows that the weighting factors used by ComEd to allocate metering services and billing and accounting expenses varied widely among ComEd's proposed delivery services customer classes. It shows, for example, that ComEd's Billing and Accounting weighting factor for

ComEd's proposed Very Large Load class of 147.556 was approximately 60 times greater than the Billing and Accounting weighting factor for the Medium Load class of 2.427. (BOMA Ex. 2.5). According to BOMA, ComEd offered no explanation in testimony for the substantial difference in weighting factors used to allocate certain costs among ComEd's proposed customer classes in ComEd's embedded cost of service study. (BOMA Ex. 2.0, pg. 14, ll. 315-323). BOMA urges the Commission to order ComEd to address the problem of appropriate weighting factors in the cost of service study to be used in ComEd's next delivery services rate case.

Commission Analysis and Conclusion

The Commission is of the opinion and concludes that the weighting factors used throughout ComEd's cost of service study appear to be flawed. Therefore, the Commission orders ComEd to address the issue of weighting factors in the embedded cost of service study ComEd presents in ComEd's next delivery services rate case.

H. Revenue Allocation

3. Other

ComEd Proposal

ComEd proposes to consolidate its present nine nonresidential delivery services customer classes segmented by peak demand into only four customer classes and allocate ComEd's revenue requirement to these new customer classes based on the embedded cost of service study ComEd presented in this case. (ComEd Ex. 9.0 Corr., pp. 37-38, ll. 797-809; ComEd Ex. 23.0, pg. 23, ll. 497-498).

DOE Position

DOE takes the position that ComEd's proposed revenue allocation is based on a mechanistic translation of class embedded cost responsibilities into rates. (DOE In. Br., pg. 5). DOE agrees with BOMA and IIEC that under ComEd's proposal standard voltage over 10 MW consumers would experience a 133% increase. (DOE In. Br., pg. 5). DOE witness Dr. Swan testified that in his 30 years of participating in electric utility rate cases, he did not recall a proposal to increase a major rate by as large a percentage as ComEd's proposal. (DOE In. Br., pg. 7; DOE Ex. 1.0, pg. 10, ll. 242-249). DOE urges the Commission that if it accepts all or much of ComEd's proposed reclassification, the Commission apply reasoned judgment in determining the revenue responsibilities of ComEd's customer classes. (DOE In. Br., pg. 6).

BOMA Position

BOMA's position is that ComEd's proposed class consolidation would cause massive rate shock – a 133% rate increase – to over 10 MW consumers. (BOMA Ex. 1.0, pp.13-14, ll. 284-299; IIEC Ex. 1.0, pp. 6-7, ll. 146-156; DOE Ex. 1.0, pp. 3-4, ll. 61-65). BOMA states that ComEd's primary argument in its direct testimony in favor of its proposal to dramatically reduce its number of nonresidential delivery services customer classes was the following: The costs of providing delivery services to the classes ComEd proposes to combine must be very similar because the charges currently in effect and

approved by the Commission for these classes of consumers are very similar. (ComEd Ex. 9.0 Corr., pg. 38, ll. 811-815). According to BOMA, ComEd's statement that delivery services charges currently in effect for the classes ComEd proposes to combine "are very similar" is flatly untrue. (BOMA In. Br., pg. 8). BOMA witness Messrs. Brookover and Childress testified that over 10 MW consumers currently pay distribution facilities charges of \$2.34 per kW, while customers with peak demands of 6-10 MW, 3-6 MW and 1-3 MW pay distribution facilities charges of \$4.47, \$4.63 and \$4.45 per kW, respectively. (BOMA Ex. 1.0, pp. 13-14, ll. 280-289; Ill. C. C. No. 4, 3rd Revised Sheet No. 119-119.1). Therefore, BOMA states that ComEd's primary justification for consolidating its nonresidential delivery customer classes is fundamentally flawed because the charges currently in effect for these classes are not at all similar. (BOMA Ex. 2.0, pp. 7-8, ll. 149-166; BOMA In. Br., pg. 8)

BOMA also argues that ComEd presented no cost of service study in its direct case which showed that the costs of service for the customer classes which ComEd is proposing to consolidate are similar enough to justify such consolidation. (BOMA Ex. 4.0, pg. 6, ll. 140-143; pg. 7, ll. 158-159). BOMA witness Mr. McClanahan testified that the proper approach for ComEd would have been to conduct the cost of service study based on the current rate classes and then propose consolidation of rate classes if the costs indeed proved to be similar. (BOMA Ex. 2.0, pg. 9-10, ll. 205-208). Mr. McClanahan testified further that this approach would have allowed the Commission to determine whether consolidation was justified. (BOMA Ex. 2.0, pg. 10, ll. 209-211). According to BOMA, ComEd has not segmented its embedded cost of service study based on ComEd's existing nonresidential customer classes and therefore has not justified its proposed consolidation of its rate classes. Additionally, BOMA argues that the failure of ComEd's embedded cost of service study to separate costs among ComEd's existing rate classes violates the requirement of 83 Ill. Adm. Code 285.5110 that utilities with more than \$5 million in annual revenues present a cost of service study which allocates costs to the utility's rate classes.

Commission Analysis and Conclusion

The Commission is of the opinion and concludes that ComEd's embedded cost of service study is flawed because the study was not conducted based on ComEd's existing nonresidential customer classes. Therefore, the Commission orders ComEd to keep its existing nonresidential delivery service classes and allocate any revenue requirement increase [or decrease] to nonresidential consumers on an equal percentage, across-the-board basis to ComEd's existing nonresidential customers classes.

I. Rate Design

1. Customer Class Delineations

b) Non-residential

2) Very Large Load Customers

ComEd Proposal

As discussed above, ComEd proposes to consolidate its current nine nonresidential delivery service customer classes segmented by peak demand into four customer classes. (ComEd Ex. 9.0 Corr., pg. 38, ll. 805-807). ComEd's proposed consolidation would eliminate the over 10 MW customer class and group these consumers into a new Very Large Load customer class for all consumers with peak demand exceeding 1 MW. (ComEd Ex. 9.0 Corr., pg. 38, ll. 805-807). ComEd would then raise its distribution facilities charge for all consumers in this new over 1 MW customer class to \$5.45 per kW. (Proposed Ill. C. C. No. 4, Original Sheet No. 369).

ComEd bases this proposed consolidation of its over 1 MW customer classes on its conclusion that the underlying costs of service for its four largest nonresidential customer classes were sufficiently close to justify combining these classes. (ComEd Ex. 9.0 Corr., pg. 38, ll. 811-815; ComEd Ex. 23.0, pp. 23-25, ll. 491-523). In support of this conclusion, ComEd stated this consolidation was consistent with the results of the embedded cost of service study filed in ComEd's last delivery services rate case which indicated very similar distribution costs among the classes that ComEd proposed to consolidate into the Very Large Load Class. (ComEd Ex. 23.0, pp. 23-24, ll. 491-512).

In its surrebuttal testimony, ComEd makes an alternative proposal regarding over 10 MW consumers under which ComEd would maintain a separate over 10 MW customer class and phase in the rate increase for this class by one half in this rate case and one half in ComEd's next delivery services rate case. (ComEd Ex. 40.0 Corr., pp. 7-8, ll. 146-157). ComEd proposes that any shortfall in revenue resulting from this proposal be recovered by allocating the shortfall on a pro rata basis to the other nonresidential customer classes and that half of its proposed rate increase for the over 10 MW class would be allowed regardless of the amount of the revenue requirement granted by the Commission in this proceeding. (ComEd Ex. 40.0 Corr., pp. 7-8, ll. 141-156). ComEd states that this alternative proposal for over 10 MW consumers was conditioned on the Commission's approval of ComEd's proposed 24-hour clock for calculating the Maximum Kilowatts Delivered ("MKD") used to determine consumers' distribution facilities charges. (ComEd Ex. 40.0 Corr., pg. 7, ll. 136-137).

BOMA Position

BOMA takes the position that the Commission should order ComEd to retain all of its existing nonresidential customer classes and allocate any revenue requirement increase (or decrease) on an equal percentage, across-the-board basis to the existing customer classes. (BOMA Ex. 2.0, pg. 10, ll. 212-225; BOMA In. Br. pg. 11). BOMA witness Mr. McClanahan disagreed with the primary argument presented in ComEd's direct testimony in support of its proposed rate consolidation that costs of providing delivery services to the classes ComEd proposes to combine must be very similar because the charges currently in effect and approved by the Commission for these classes of consumers are very similar. (BOMA Ex. 2.0, pp. 7-8, ll. 149-166; ComEd Ex. 9.0 Corr., pg. 38, ll. 811-815). BOMA witnesses Messrs. Brookover and Childress testified that over 10 MW consumers currently pay distribution facilities charges of \$2.34 per kW, while consumers with peak demands of 6-10 MW, 3-6 MW and 1-3 MW pay distribution

facilities charges of \$4.47, \$4.63 and \$4.45 per kW, respectively. (BOMA Ex. 1.0, pp. 13-14, ll. 280-289; Ill. C. C. No. 4, 3rd Revised Sheet No. 119-119.1)

BOMA notes also that ComEd has not segmented its embedded cost of service study based on ComEd's existing nonresidential customer classes and therefore, according to BOMA, has not justified its proposed consolidation of its rate classes. (BOMA In. Br., pp. 9-10). BOMA witness Mr. McClanahan testified that the proper approach for ComEd would have been to conduct the cost of service study based on the current rate classes and then propose consolidation of rate classes if the costs indeed proved to be similar. (BOMA Ex. 2.0, pg. 9-10, ll. 205-208). Mr. McClanahan stated that this approach would have allowed the Commission to determine whether consolidation was justified. (BOMA Ex. 2.0, pg. 10, ll. 209-211).

BOMA contends that its approach of retaining all of ComEd's existing nonresidential customer classes and allocating any revenue requirement increase [or decrease] for nonresidential consumers on an equal percentage, across-the-board basis to the existing customer classes not only is the best way to handle the fact that ComEd's embedded cost of service study did not justify ComEd's proposed consolidation of its delivery service rate classes but also is the best approach to avoid rate shock for over 10 MW consumers. (BOMA In. Br., pg. 11). However, in the event the Commission rejects this approach, BOMA urges the Commission to order ComEd to have a separate rate class for over 10 MW consumers and phase in any rate increase for these consumers regardless of whether the Commission adopts ComEd's 24-hour MKD proposal. (BOMA In. Br., pp. 11-12).

IIEC Position

IIEC's opposes ComEd's proposal to consolidate all four of ComEd's current nonresidential rate classes for consumers with more than 1 MW of peak demand and recommends that the over 10 MW class be retained as a separate class. (IIEC Ex. 1.0, pg. 15, ll. 289-298, IIEC In. Br., pg. 34). IIEC contends that ComEd failed to present in this case a valid cost of service study that developed costs by existing customer classes and has not offered any other legitimate reason for combining all four of the existing nonresidential rate classes for consumers with more than 1 MW of peak demand into a single class. (IIEC Ex. 1.0, pg. 15, ll. 276-279, IIEC Ex. 2.0, pg. 9, ll. 164-179, pp. 10-11, ll. 197-205; IIEC In. Br. pg 40). IIEC argues that the rates applicable to over 10 MW consumers, both standard voltage and high voltage (69 kV and higher), should be based on the current (taking effect June 2006) rates and increased or decreased in proportion to the over overall revenue increase or decrease approved by the Commission in this case. (IIEC Ex. 1.0, pg. 16, ll. 301-305, pg. 8, Table 2; IIEC In. Br., 7).

DOE Position

DOE's position is that in view of the enormous rate increase for over 10 MW consumers that would result from a mechanical translation of ComEd's estimated embedded costs into distribution facilities charges, the Commission should retain two

classes of customers with loads in excess of 10 MW, one for standard voltage consumers and one for consumers who take service at 69 kV or higher. (DOE In. Br., pp. 11-12)

DOE contends that the distribution facilities charges for these customers should be set by increasing or decreasing the June 2006 rate under the current rate design in proportion to ComEd's overall revenue increase for nonresidential customers that is determined by the Commission in this case. (DOE In. Br., pg. 12). Alternatively, DOE recommends that if the Commission believes that it must make some greater progress toward rates equal to the embedded unit cost provided in ComEd's embedded cost of service study, then it might consider adding 5 percentage points to the increase that would result from DOE's approach. (DOE In. Br., pg. 12).

Should the Commission reject the aforementioned DOE proposals, DOE then urges that at the very least the Commission should accept ComEd's mitigation proposal presented in ComEd witness Mr. Crumrine's surrebuttal testimony to move half way toward embedded costs in this case for over 10 MW consumers; that this relief be provided whether or not ComEd's proposed 24-hour MKD proposal is adopted; and that the Commission should make the 2-step process a function of the actual costs of service increase that is awarded by the Commission in this case. (DOE In. Br., pp. 12-13).

CTA Position

The CTA's position is that the over 10 MW customer class should be maintained as recommended by IIEC and that the price for the over 10 MW class should be the ceiling for the price applied to the Railroad Class. (CTA Ex. 3.0, pg. 1-2, ll. 27-31; CTA In. Br., pg. 4).

Metra Position

Metra takes the position that Metra should be charged prices no higher than the over 10 MW customer rate class and that ComEd has failed to offer any persuasive rationale to justify charging Metra any different price than the over 10 MW customer class. (Metra In. Br., pp. 1, 7). Therefore, according to Metra, it should be entitled to take delivery of electricity at the same price of \$3.86 kW, or less, as is offered to the over 10 MW class in ComEd witness Mr. Crumrine's surrebuttal testimony. (Metra In. Br., pg. 7).

Commission Analysis and Conclusion

ComEd's proposed consolidation of its current nine nonresidential delivery service customer classes segmented by peak demand into only four customer classes would cause massive rate shock for over 10 MW consumers and is not supported by the cost of service study that ComEd presented in this proceeding. The Commission is of the opinion and concludes that ComEd should retain all of its existing nonresidential customer classes and allocate any revenue requirement increase [or decrease] on an equal percentage, across-the-board basis to ComEd's existing customer classes. *[Alternatively,*

the Commission should adopt the alternative proposal to maintain an over 10 MW customer class and phase in the rate increase proposed by ComEd witness Mr. Crumrine in his surrebuttal testimony.]

3) High Voltage Class Rates

ComEd Proposal

ComEd has proposed to establish a separate rate class for all consumers who take service at or above 69,000 volts (“high voltage consumers”) and eliminate its practice of providing a high voltage credit on distribution facilities charges to these consumers under its current Rider HVDS tariff. (ComEd Ex. 9.0 Corr., pp. 38-39, ll. 821-833). ComEd testifies that its proposal to create such a separate high voltage delivery service class is comparable to ComEd’s current practice of giving a credit to high voltage consumers through Rider HVDS. (ComEd Ex. 9.0 Corr., pp. 38-39, ll. 821-833, ComEd Ex. 23.0, pg. 29, ll. 621-622).

BOMA Position

BOMA takes the position that the separate high voltage class approach proposed by ComEd does not have the same impact as the HVDS credit approach on non-high voltage over 10 MW consumers. (BOMA Ex. 3.0, pg. 9, ll. 179-181). BOMA witnesses Messrs. Brookover and Childress testified that this is demonstrated by the 133% rate increase to non-high voltage over 10 MW consumers proposed by ComEd in this case. (BOMA 3.0, pg. 9, ll. 181-182). BOMA urges the Commission to order ComEd to continue its current practice of providing a credit to high voltage consumers through Rider HVDS and allocating the lost revenues resulting from the credit to all nonresidential customer classes on an equal percentage, across-the-board basis. (BOMA Ex. 1.0, pg. 14, ll. 293-299).

DOE Position

DOE’s position is that if the Commission determines that the average embedded costs should be mechanically translated into rates, then the Commission should use the High Voltage Class modifications to ComEd’s embedded cost of service study proposed by DOE witness, Dr. Swan. (DOE In. Br., pg. 4). According to DOE, the implications on rates of Dr. Swan’s modifications would be either to have two classes of High Voltage loads, or to place low voltage loads included by ComEd in its proposed High Voltage Class in the appropriate standard voltage category, and bill those loads based on those standard voltage rates. (DOE In. Br., pg. 4). DOE contends that its proposal is necessary because ComEd’s proposal has the peculiar result of extending high voltage discounts to low voltage loads because ComEd’s proposal includes loads in the High Voltage Class that are served at lower voltages as long as those consumers have some load served at 69 kV or above. (DOE In. Br., pg. 3).

Commission Analysis and Conclusion

The Commission is of the opinion and concludes that the creation of a High Voltage Class would have a very adverse impact on over 10 MW non-high voltage consumers. Therefore, the Commission order ComEd to continue its current practice of providing a credit to high voltage consumers through Rider HVDS and allocating the lost revenues resulting from the credit to all nonresidential customer classes on an equal percentage, across-the-board basis.

8. Elimination of Rider 25

ComEd Position

ComEd proposes to eliminate Rider 25 – Electric Space Heat (“Rider 25”). (ComEd Ex. 9.0 Corr., pg. 21, ll. 477-480). ComEd’s position is that Rider 25 is no longer necessary because Rider 25 was created when ComEd was a vertically integrated utility, and contains a price structure that reflects the costs of a vertically integrated electric utility. (ComEd In. Br., pg. 219). ComEd contends that BOMA’s proposal amounts to a request for free delivery service for two-thirds of the year and that BOMA’s request is unreasonable and devoid of any cost justification. (ComEd Ex. 23.0, pg. 31, ll. 669-671, pg. 35, ll. 739-749, ComEd Ex. 40.0 Corr., pg. 38, ll. 854-865). ComEd also argues that the Commission has already made its conclusion concerning BOMA’s proposal in Docket 05-0159 (the Procurement Case) and determined that rate mitigation is only appropriate for nonresidential space heating customers under 400 kW. (ComEd In. Br., 221).

BOMA Proposal

BOMA proposes that ComEd continue its practice of exempting nonresidential space heating consumers from demand charges on electricity used for space heating (in Rider 25) in the delivery services tariffs adopted by the Commission in this proceeding. (BOMA Ex. 1.0, pg. 11, ll. 237-241, BOMA Ex. 2.0, pg. 11, ll. 239-242). BOMA witnesses Messrs. Brookover and Childress testified that BOMA’s nonresidential space heating proposal is designed to continue the separate rate treatment for these consumers that was begun nearly three decades ago when Rider 25 was first instituted. (BOMA Ex. 1.0, pg. 11, ll. 243-245). Messrs. Brookover and Childress testified also that ComEd’s elimination of separate rate treatment for nonresidential space heating consumers will cause massive rate shock for these consumers because they currently are charged approximately 17% less under Rider 25 than they would be under ComEd’s otherwise applicable charges. (BOMA Ex. 1.0, pg. 8, ll. 164-174, pg. 10, ll. 207-213; BOMA Ex. 1.1; BOMA Ex. 1.2).

In response to ComEd’s argument that separate rate treatment for nonresidential space heating consumers is no longer necessary to promote the local use of nuclear and large coal basedload power to support operational efficiency, BOMA witness Mr.

McClanahan testified that operational efficiency of the electric system in ComEd's service territory is still improved by promoting the use of nuclear and coal baseload plants at off-peak times. (BOMA Ex. 4.0, pp. 4-5, ll. 98-113). Mr. McClanahan, however, contended that ComEd may not want to promote such operational efficiency so that its affiliate company Exelon Generation can sell more electricity from its generating plants in high cost electric markets rather than in Illinois. (BOMA Ex. 4.0, pp. 4-5, ll. 98-113). Additionally, Mr. McClanahan pointed out that ComEd has not provided any cost basis for the elimination of separate rate treatment for nonresidential space heating customers. (BOMA Ex. 4.0, pg. 2, ll. 47-55).

In support of its proposal, BOMA notes that it represents both nonresidential space heating consumers and nonresidential non-space heating consumers in this proceeding and that it is in a vastly superior position to ComEd to determine whether BOMA's proposal is equitable to both nonresidential space heating consumers and nonresidential non-space heating consumers and is necessary to avoid massive rate shock. (BOMA In. Br., pg. 17). BOMA witnesses Messrs. Brookover and Childress testified that the adoption of their proposal would make the overall rate increase for nonresidential space heating consumers comparable to the overall rate increase for nonresidential non-space heating consumers. (BOMA Ex. 3.0, pg. 4, ll. 76-84).

BOMA argues also that Staff's mitigation plan in ComEd's procurement case (Ill. C.C. Docket No. 05-0159) does not adequately address the massive rate shock which nonresidential space heating consumers would experience as a result of the elimination of Rider 25. (BOMA Ex. 4.0, pp. 6-7, ll. 127-138; BOMA In. Br., pg. 17.). BOMA witnesses Messrs. Brookover and Childress testified that the Staff rate increase mitigation plan only applies to nonresidential space heating consumers with less than 400 kW of peak demand and that 79% of the total nonresidential space heating load is ineligible for this rate mitigation plan. (BOMA Ex. 4.0, pp. 6-7, ll. 127-138). BOMA also points out that even for those nonresidential space heating consumers for whom the Staff mitigation plan does apply, the threshold for rate mitigation is extraordinarily high (i.e., 20% or 150% of the average class rate increase, whichever is *greater*). (BOMA Ex. 3.0, pg. 7, ll. 145-147).

Commission Analysis and Conclusion

ComEd has not provided any cost basis for the elimination of separate rate treatment for nonresidential space heating consumers. The rate mitigation plan adopted in Docket 05-0159 does not adequately address the massive rate shock which nonresidential space heating consumers would experience as a result of the elimination of Rider 25. BOMA's plan would continue the rate treatment of nonresidential space heating consumers that was begun nearly three decades ago when Rider 25 was first instituted.

The Commission is of the opinion and concludes that ComEd should exempt nonresidential space heating consumers from demand charges (i.e., distribution facilities charges) on electricity used for space heating in ComEd's delivery services tariffs.

17. Rider RESALE

ComEd Proposal

ComEd proposes to replace its current Rider 12 with Rider Resale. (ComEd Ex. 9.0 Corr., pg. 27, ll. 605-609). ComEd notes that BOMA, CES and IIEC raised concerns in their testimony that under ComEd's proposed language for Rider Resale a landlord would not be able to charge varying electric rates to tenants even if that tenant's load profile warranted different rates. (ComEd Ex. 24.0, pp. 23-24, ll. 592-603). In its rebuttal testimony, ComEd witnesses Messrs. Alongi and McInerney stated that these were legitimate concerns and agreed to adopt the alternative language proposed by BOMA for Rider Resale. (ComEd Ex. 24.0, pp. 23-24, ll. 596—628).

BOMA Position

BOMA takes the position that the alternative language for Rider Resale BOMA proposed in response to ComEd's direct testimony would address provisions of Rider Resale that would have inadvertently prevented landlords from both properly allocating and fully recovering the costs of reselling electricity to tenants. (BOMA Ex. 1.0, pg. 15, ll. 322-325; pp. 17-18, ll. 379-399). BOMA notes that its proposed alternative language also is acceptable to ComEd, CES and IIEC. (BOMA In. Br., pg. 18).

Staff Position

Staff does not object to the modifications to Rider Resale that BOMA proposed and which were expressed in ComEd's rebuttal testimony since Staff does not advocate requiring landlords that resell electricity to their tenants under Rider Resale to become certified as Alternative Retail Electric Suppliers. (Staff In. Br., pg. 121)

IIEC Position

IIEC takes the position that the language proposed by BOMA and adopted by ComEd in its rebuttal testimony adequately addresses the concerns IIEC raised in its direct testimony regarding Rider Resale. (IIEC Ex. 5.0, pg. 20, ll. 446-456)

CES Position

CES takes the position that the Commission should accept the alternative Rider Resale language that BOMA proposed and ComEd accepted in its rebuttal testimony. (CES Ex. 5.0, pp. 3-4, ll. 61-68)

Commission Analysis and Conclusion

The alternative language proposed by BOMA adequately addresses the legitimate concerns raised by BOMA, CES and IIEC regarding the language of Rider Resale that was originally proposed by ComEd. The Commission is of the opinion and concludes that BOMA's alternative Rider Resale language should be adopted.

XI. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record herein, is of the opinion and finds that:

1) ComEd's embedded cost of service study allocated costs based only on ComEd's proposed nonresidential customer classes rather than ComEd's existing customer classes, and accordingly does not provide any cost-based justification for ComEd's proposed consolidation of its nine current nonresidential customer classes segmented by peak demand into only four customer classes;

2) ComEd's embedded cost of service study classifies all distribution and associated costs in FERC accounts 364-368 as solely demand-related and thereby ignores the customer-related portions of these accounts;

3) ComEd must follow the NARUC guidelines for allocating costs in FERC accounts 364-368 in ComEd's cost of service study presented in ComEd's next delivery services rate case;

4) ComEd must address the problems with the weighting factors used in its cost of service study presented in ComEd's next delivery services rate case;

5) ComEd's proposed consolidation of its current nonresidential customer classes would cause massive rate shock for over 10 MW consumers;

6) ComEd must retain all of its existing nonresidential customer classes and allocate any revenue requirement increase [or decrease] to nonresidential consumers on an equal percentage, across-the-board basis to the existing nonresidential customer classes;

7) ComEd's proposal to create a separate high voltage class would cause rate shock for over 10 MW non-high voltage consumers;

8) ComEd should continue its current practice of providing a credit to high voltage consumers through Rider HVDS and should allocate the lost revenues resulting from the credit to all nonresidential customer classes on an equal percentage, across-the-board basis;

9) ComEd's proposed elimination of separate rate treatment for nonresidential space heating consumers will cause massive rate shock for these consumers;

10) ComEd has not provided any cost justification for the elimination of separate rate treatment for nonresidential space heating consumers;

11) The rate mitigation plan adopted by this Commission in Docket 05-0159 does not adequately address the massive rate shock which nonresidential space heating consumers would experience as a result of the elimination of Rider 25;

12) BOMA's nonresidential space heating proposal would merely continue the rate treatment of nonresidential space heating consumers that was begun nearly three decades ago when ComEd's bundled rate Rider 25 was first instituted, but allow ComEd to eliminate Rider 25;

13) ComEd should exempt nonresidential space heating consumers from demand charges (i.e., distribution facilities charges) on electricity used for space heating in ComEd's delivery services tariffs;

14) BOMA's alternative Rider Resale language adequately addresses the legitimate concerns raised by BOMA, CES and IIEC regarding the language of Rider Resale that was originally proposed by ComEd and should be adopted by ComEd.

IT IS THEREFORE ORDERED that ComEd retain all of its existing nonresidential customer classes and allocate any revenue requirement increase [or decrease] to nonresidential consumers on an equal percentage, across-the-board basis to the existing nonresidential customer classes;

IT IS FURTHER ORDERED that in the embedded cost of service study that ComEd files in its next delivery services rate case, ComEd should follow the guidelines contained in NARUC's Electricity Cost Allocation Manual for allocating demand-related and customer-related costs in FERC accounts 364-368.

IT IS FURTHER ORDERED that ComEd address the issue of weighting factors in the embedded cost of service study ComEd files in ComEd's next delivery services rate case.

IT IS FURTHER ORDERED that ComEd continue its current practice of providing a credit to high voltage consumers through Rider HVDS and allocating the lost revenues resulting from the credit to all nonresidential customer classes on an equal percentage, across-the-board basis;

IT IS FURTHER ORDERED that ComEd exempt nonresidential space heating consumers from demand charges (i.e., distribution facilities charges) on electricity used for space heating in its delivery services tariffs; and

IT IS FURTHER ORDERED that ComEd adopt BOMA's proposed language for Rider Resale.

By Order of the Commission the _____ day of _____, 2006.